



Control Number: 42959



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DOCKET NO. 42959

APPLICATION OF AQUA UTILITIES,
INC. AND AQUA TEXAS, INC. D/B/A
AQUA TEXAS FOR SALE, TRANSFER,
OR MERGER OF FACILITIES AND TO
AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY IN
MCLENNAN COUNTY (T&A WATER
AND VLS INC. WATER SYSTEMS;
37944-S)

PUBLIC UTILITY COMMISSION

OF

TEXAS

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**COMMISSION STAFF'S RESPONSE TO ORDER NO. 4, STATUS REPORT, AND
REQUEST FOR EXTENSION OF DEADLINE**

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Response to Order No. 4, Status Report, and Request for Extension of Deadline. In support of its Response, Staff states the following:

I. BACKGROUND

On June 4, 2014, Aqua Texas, Inc. d/b/a Aqua Texas (Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) regarding the sale, transfer, or merger (STM) and amendment of Certificate of Convenience and Necessity (CCN) No. 11157 held by Aqua Utilities, Inc. in McLennan County, Texas pursuant to TEX. WATER CODE ANN. § 13.301 and Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.109 and 24.112.

Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities and this case formerly pending at the TCEQ was transferred to the Commission. On September 29, 2014, Order No. 2 Requiring Comments on Status was issued requiring Staff to file an update on the status of the proceeding, to file a recommendation on the need for a hearing or on final disposition of the application, or to propose a procedural schedule by October 20, 2014.

On October 20, 2014, Staff filed its Response to Order No. 2 and requested that the Administrative Law Judge extend the deadline for Staff to file its recommendation on processing the application until Friday, December 19, 2014. On October 21, 2014, Order No. 2 Granting Extension was issued, requiring Staff to file a recommendation on the need for a hearing or on final disposition, or to propose a procedural schedule for processing this proceeding by

December 19, 2014. On December 19, 2014, Staff filed its Recommendation on the Application, in which Staff identified multiple deficiencies in the application and notice and requested that the Applicant be given additional time to cure the deficiencies. On January 5, 2015, the Administrative Law Judge issued Order No. 4 directing the Applicant to file an amended application to cure the deficiencies by January 30, 2015. This Response is timely filed.¹

II. ADMINISTRATIVE COMPLETENESS

With respect to procedure, the Commission's substantive rules state:

On or before the 120th day before the effective date of any sale, acquisition, lease, rental, merger or consolidation of any water or sewer system required by law to possess a certificate of public convenience and necessity, the utility or water supply or sewer service corporation shall file a written application with the commission and give public notice of the action.²

The 120-day period begins on the later of: (i) the filing of a sale, transfer, merger application; (ii) if mailed notice is required, the date that the applicant mailed notice; or (iii) if newspaper notice is required, the last date of publication of the notice.³ An application is not considered filed until "a determination of administrative completeness is made."⁴

Staff notes that the Commission has not yet made a determination of administrative completeness in this proceeding. Therefore, the 120-day clock pursuant to 16 TAC § 24.109(a) has not yet started.

III. STATUS UPDATE AND REQUEST FOR AN EXTENSION OF TIME

In its December 19, 2014 Recommendation, Staff identified multiple mapping and related notice deficiencies in the application, including that the Applicant failed to provide a general location map that accurately delineates the proposed service area within each county. Staff is currently in the process of performing its administrative review, including an overlap check, on

¹ The Applicant filed supplemental information to cure the identified deficiencies on January 30, 2015. Ten working days from January 30, 2015 falls on Friday, February 13, 2015.

² 16 TAC § 24.109(a).

³ 16 TAC § 24.109(a)(1)-(3).

⁴ *Id.*

the supplemental mapping and notice information submitted by the Applicant on January 30, 2015 in order to determine whether this supplemental information is sufficient to cure the identified deficiencies. The overlap check allows Staff to determine the location of the Applicant's proposed CCN area and is integral in determining whether the information submitted by the Applicant in its application is sufficient. The overlap check allows Staff to determine whether the Applicant's proposed CCN area overlaps with other existing CCN areas and whether the Applicant has provided proposed notice for the proper affected parties. Staff cannot complete its administrative review of the application until this overlap check is complete. Therefore, good cause exists for Staff to request additional time to complete its administrative review before submitting a recommendation on the sufficiency and processing of this case. Staff respectfully requests that the ALJ extend the deadline for Staff to file comments on the administrative completeness of the application and proposed notice and proposed procedural schedule until March 30, 2015.

IV. CONCLUSION

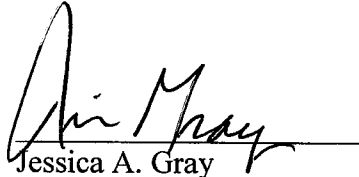
Staff respectfully requests that the ALJ extend the deadline for Staff to file comments on the administrative completeness of the application and proposed notice and a proposed procedural schedule until March 30, 2015.

Date: February 13, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division

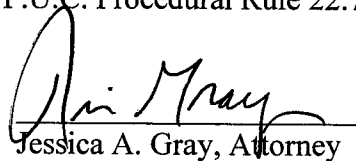

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CERTIFICATE OF SERVICE

I certify that a copy of this document was served his document was served on all parties of record on February 13, 2015 in accordance with P.U.C. Procedural Rule 22.74.


Jessica A. Gray, Attorney